

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

EMPIRE HOME SERVICES, L.L.C.,

Plaintiff/Counter-Defendant,

v.

Case No. 05-CV-72584-DT

EMPIRE IRON WORKS, INC.,

Defendant/Counter-Plaintiff.

**OPINION AND ORDER STRIKING PLAINTIFF'S "SUMMARY JUDGMENT
MOTION FOR INFRINGEMENT" AND DENYING PLAINTIFF'S
"MOTION REQUESTING AN EXPEDITED HEARING . . ."**

On December 5, 2006, Plaintiff filed a "Summary Judgment Motion for Infringement." The motion was filed over a month past the cut-off date of November 2, 2006 for dispositive motions. (10/12/06 Order at 3.) Plaintiff did not seek leave from the court to file its dispositive motion after the cutoff date. In response to telephonic inquiry by the court's staff, Plaintiff's counsel stated that its motion is in response to Defendant's pending motion for summary judgment, which was filed on November 2, 2006. The proper place for responding to Defendant's motion is in a response brief, which Plaintiff indeed filed. (Pl.'s 12/5/06 Resp.) The court will therefore strike Plaintiff's motion for summary judgment and deny its request to expedite hearing of that motion. The court will continue to reserve the December 20, 2006 hearing date for "all *timely* dispositive motions[.]" (10/12/06 Order at 4, emphasis added.) Accordingly,

IT IS ORDERED that Plaintiff's "Summary Judgment Motion for Infringement" [Dkt #90] is STRICKEN from the docket of this court.

IT IS FURTHER ORDERED that Plaintiff's "Motion Requesting an Expedited Hearing . . ." [Dkt #91] is DENIED AS MOOT.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 15, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 15, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522